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### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed July 28, 2005. In the Office Action, the Examiner notes that claims 1-20 and 23-25 are pending and rejected. By this response, claims 1, 9, 10, 17, 20 and 25 have been amended.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

### **Amendments to the Claims**

By this response, claims 1, 9, 10, 17, 20 and 25 have been amended. The amendments to the claims are fully supported by the Specification, Drawings and Claims as originally filed.

For example, the amendments to claims 1, 9, 10 and 25 are supported at least by page 26, line 24, to page 27, line 6; and page 50, line 26, to page 51, line 4. The amendments to claims 17 and 20 are supported at least by page 28, line 5, to page 29, line 9.

Thus, no new matter has been added and the Examiner is respectfully requested to enter the amendments.

### **Rejection under 35 U.S.C. §103 of Claims 1-16 and 25**

The Examiner has rejected claims 1-16 and 25 as being unpatentable over U.S. Patent No. 5,631,693 to Wunderlich et al. (hereinafter "Wunderlich") in view of U.S. Patent No. 5,818,511 to Farry et al. (hereinafter "Farry") and further in view of U.S. Patent No. 5,357,276 to Banker (hereinafter "Banker") and U.S. Patent 4,686,564 to Masuko et al. (hereinafter "Masuko"). Applicants respectfully traverse the rejection.

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To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. The Wunderlich, Farry, Banker and Masuko references fail to teach or suggest all of the limitations recited in claim 1, and thus fail to teach or suggest the Applicants' invention as a whole.

Specifically, the Wunderlich, Farry and Banker references, alone or in combination, fail to teach or suggest at least the "first authorization code, in response to a request for a video on demand program, to authorize a set top terminal to tune to a specific preview channel and to enable delivery of a requested program, wherein the specific preview does not provide the full video on demand program" as recited in claim 1.

Wunderlich discloses a "system [which] comprises a headend coupled to a distribution network having a multiplicity of subscribers," the system having an "on demand services feature for the provision of video, audio, and data services" (abstract). Farry discloses a digital switching network which accommodates video on demand. Banker discloses a "subscriber terminal [which] stores global transactions concerning NVOD events" (abstract).

However, as the Examiner acknowledges:

"The combination of Wunderlich, Farry, and Banker ... is silent on a code to authorize tuning to a specific preview channel and enable delivery of a requested program." (page 4 of the 7/28/05 Office Action)

The Masuko reference fails to bridge the substantial gap between the Wunderlich, Farry and Banker references and Applicants invention as recited in claim 1. The Masuko reference discloses an "external control unit for a CATV system [which] has a CPU and a RAM with many kinds of memory maps" (Abstract). The Examiner alleges regarding the Masuko reference (emphasis added below):

"In analogous art, Masuko teaches canceling a requested program within a predetermined amount of time to prevent the user from being charged for the service (col. 18, ll. 12-24, col. 18, ll. 49-58), consequently, Masuko teaches that an authorization code of the combination of Wunderlich, Farry, and Banker can be sent, wherein the user can cancel the programming without being charged, which equates to authorizing a set top terminal to tune to a specific preview channel (e.g. the first part of a program when a user can exit without being charged) and enabling the delivery of the requested program." (page 4 of the 7/28/05 Office Action)

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However, the Masako reference does not teach or suggest the authorizing a set top terminal to tune to a specific preview channel that does not provide the full video on demand program. Instead, Masako discloses:

"In the example illustrated in FIG. 13, subscribers SUB1 and SUB2 reserve the channel PN2, and a subscriber SUB3 reserves the channel PNI. Assuming that the pay program starts on the channel PN2, the charge data "1" is written in the charge map 711 of the subscriber SUB1 watching this pay program for 30 minutes or more. When the pay program starts on the channel PN2, if the subscriber SUB2 cancels the pay program within 30 minutes, no charge data is written in the charge map of the subscriber SUB2." (column 18, lines 53-62)

Thus, Masako discloses that if a subscriber cancels a pay program within 30 minutes, no charge data is written for that subscriber. However, the subscriber is watching the actual pay program, which is on channel PN2 in the recited portion of the Masako reference above. Thus, the Masako reference does not teach or suggest authorizing a set top terminal to tune to a specific preview channel that does not provide the full video on demand program.

Moreover, authorizing a set top terminal to tune to a specific preview channel that does not provide the full video on demand program provides some of the advantages of the present invention. For example, as recited in the Specification (emphasis added below):

"VOD gathers subscriber requests within minutes and efficiently allocates the subscriber requests (unknownst to the subscriber) to a specific channel, while the subscribers view a preview. The specific channel refers generically to a "channel" that may be either a program signal tuned to a specific 6 MHz bandwidth or a "virtual channel" (which does not involve assignment of data or a signal to a particular segment of bandwidth)." (page 50, lined 29, to page 51, line 4)

Thus, the use of a specific preview channel enables efficient allocation of subscriber requests and the use of virtual channels for the specific preview channel.

Therefore, the Wunderlich, Farry, Banker and Masuko references fail to teach or suggest the Applicants' invention as a whole.

As such, Applicants submit that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover,

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independent claims 9, 10 and 25 contain substantially similar relevant limitations as those discussed above in regards to claim 1. As such, Applicants submit that independent claims 9, 10 and 25 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 2-8 and 11-16 depend, either directly or indirectly, from independent claims 1, 9, 10 and 25 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the rejection be withdrawn.

**Rejection under 35 U.S.C. §103 of Claims 17-20 and 23-24**

The Examiner has rejected claims 17-20 and 23-24 under 35 U.S.C. §103(a) as being unpatentable over Wunderlich in view of Farry and further in view of Banker and U.S. Patent 5,245,420 to Harney (hereinafter "Harney")

Wunderlich, Farry, Banker and Harney alone or in combination fail to teach or suggest Applicants' invention as a whole.

Specifically, the Wunderlich, Farry and Banker references, alone or in combination, fail to teach or suggest at least the "a file server ... capable of (i) receiving a first authorization code to enable delivery of a requested program to all the set top terminals requesting the same requested program within the time period, and (ii) sending a second authorization code to all the set top terminals requesting the same requested program within the time period, wherein ... the second authorization code enables descrambling said scrambled requested program," as recited in claim 17 as amended, wherein the time period extends from an initial request for the video on demand program.

The Wunderlich reference discloses a "system [which] comprises a headend coupled to a distribution network having a multiplicity of subscribers," the system having an "on demand services feature for the provision of video, audio, and data services" (abstract). However, as the Examiner acknowledges:

"Wunderlich discloses a network manager (51) that comprises a processor having control software that group the program requests based on if an on demand channel is available for a given time period, but is

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silent on a timer extending from an initial request for a program.” (page 11 of the 7/28/05 Office Action)

Therefore, the Applicants respectfully submit that because Wunderlich is silent on a timer extending from an initial request for a program, Wunderlich also necessarily fails to teach or suggest the claimed file server to receive/send the first/second authorization codes “to all the set top terminals requesting the same requested program within the time period,” because, in part, the Wunderlich reference lacks the timer to determine the time period.

The Farry and Banker references fail to bridge the substantial gap between the Wunderlich reference and Applicants' invention as recited in claim 17. Farry discloses a digital switching network which accommodates video on demand. Banker discloses a near video on demand system having a time shifting feature. However, the Farry and Banker references both fail to teach or suggest at least the claimed the claimed file server to receive/send the first/second authorization codes “to all the set top terminals requesting the same requested program within the time period.”

Furthermore, the Harney reference also fails to bridge the substantial gap between the Wunderlich, Farry and Banker references and Applicants' invention as recited in claim 17. Harney discloses an “off premises CATV system” (abstract). Regarding the Harney reference, the Examiner alleges (emphasis added below):

“Harney teaches entering a movie after the beginning of the movie (col. 16, ll. 38-45), which equates to a time period extending from an initial request of a program.” (page 11 of the 7/28/05 Office Action)

However, the Harney reference does not teach or suggest at least the claimed file server to receive/send the first/second authorization codes “to all the set top terminals requesting the same requested program within the time period.” In the section cited by the Examiner, the Harney reference discloses (emphasis added below):

“Preferably, a premium program may be purchased during a purchase window fixed by headend 10. For example, a subscriber may purchase an event in a purchase window beginning thirty minutes before the scheduled start of the program and ending ten minutes after the program start. A cancel window during which a subscriber may cancel a purchase may likewise be configured by headend 10.” (column 16, lines 38-45)

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Thus, the Harney reference discloses a purchase window and a cancel window for a (single) subscriber. This does not teach or suggest receiving/sending the first/second authorization codes "to all the set top terminals requesting the same requested program within the time period."

Therefore, the Wunderlich, Farry, Banker and Harney references fail to teach or suggest the Applicants' invention as a whole.

As such, Applicants submit that independent claim 17 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, independent claims 20 contains substantially similar relevant limitations as those discussed above in regards to claim 17. As such, Applicants submit that independent claim 20 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 18-19 and 23-24 depend, either directly or indirectly, from independent claims 17 and 20 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the rejection of such claims under 35 U.S.C. §103(a) be withdrawn.

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### CONCLUSION

Thus, Applicants submit that none of the claims presently in the application, are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Stephen Guzzi at (732) 383-1405 or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 10/27/05

  
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